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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 LENROY McLEAN,
12 Plaintiff,
13 v.
14 R. PHILLIP GUTIERREZ, et al.,
15 Defendants.
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) Case No. ED CV 15-275-RGK (SP)
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**ORDER ACCEPTING FINDINGS AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE**

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, records
19 on file, and the Report and Recommendation of the United States Magistrate Judge.
20 Further, the Court has engaged in a de novo review of those portions of the Report to
21 which plaintiff and defendants have objected. The Court accepts the findings and
22 recommendation of the Magistrate Judge.

23 IT IS THEREFORE ORDERED that: (1) defendants' Motion for Partial
24 Summary Judgment (docket no. 49) is granted, and Claims One(A), (B), and (C)
25 against defendant Gutierrez are therefore dismissed with prejudice; (2) defendants
26 Gutierrez and Hernandez are dismissed in their official capacity; (3) defendants'
27 Motion to Dismiss (docket no. 48) is granted in part to the extent of dismissing
28 Claims One(D) and (E) against defendant Gutierrez with prejudice, and thereby

1 dismissing defendant Gutierrez; and (4) defendants' Motion to Dismiss Claim Two
2 against defendant Hernandez in his individual capacity is denied. Defendant
3 Hernandez is ordered to answer the operative Third Amended Complaint within
4 fourteen days of this Order.

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6 DATED: January 10, 2018


HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE